

June 11, 2007

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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**ORDER GRANTING MOTION FOR RECONSIDERATION IN PART,
REVISING REPORT AND DECISION**

SUBJECT: Department of Development and Environmental Services File No. **L04CU032**

SNOQUALMIE RIVER SOCCER CAMP

Conditional Use and SEPA Threshold Determination Appeals

Location: 46521 Southeast 105th Street

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Applicant Peter Fewing filed a Motion for Reconsideration of certain conditions imposed on the conditional use permit by the Examiner's February 13, 2007 Report and Decision on the subject conditional use permit (CUP) appeal. The parties were granted opportunities to respond and reply to the motion.

The Examiner makes the following Findings and Conclusions in response to the motion and responses thereto:¹

1. The Applicant objects to the restriction placed in revised Condition 2 which limits non-CUP facility supported soccer field and soccer camp operation (the "basic" soccer facility; see footnote) to 130 days per calendar year. The Examiner accepts Applicant's argument that the continued use of the existing "basic" field facility is not appropriate to limit in the Decision on the appeal, given a prior Hearing Examiner ruling during preliminary proceedings in this case that the land use permissibility of the existing soccer field and its soccer camp usage was not under review in the instant conditional use permit appeal proceeding (which ruling this Examiner declared at hearing was the law of the case).
2. The continued usage of the existing "basic" soccer field/camp operation is not a matter under the Examiner's jurisdiction in this case and shall not be regulated by the Examiner's Decision.
3. The Applicant has also stated objection to the Examiner's imposition of a 130-day per year limitation on use of the CUP facility soccer camp but has stated in the motion that he is willing to accept such limitation. It therefore need not be addressed further.
4. Lastly, the Applicant objects to the limitation of the CUP facility soccer camp solely to soccer-related sport activities, contending that that was not his intent in proposing the development, and that organized groups in other sports, such as rugby, lacrosse and other field sports, etc., have expressed interest in using the CUP facility camp facilities. The Applicant also asserts that the existing "basic" soccer field/camp area has been utilized by other, non-soccer outdoor recreation groups.
5. While there may be arguable merit to the Applicant's contention that there is little distinction as to level, intensity and type of sports activity among, for instance, soccer, rugby, lacrosse and other field sports activities, the argument fails to address larger issues: it begs the question of the effect of expanding the range of sports accommodated in the CUP facility camp, the consideration of that expansion in the conditional use permit review, and where the line of expansion of sports uses should be drawn.
6. The Examiner does not accept the Applicant's argument that the conditional use permit is for a generic "campground," and that the allowance of a "campground" by a conditional use permit therefore grants a blanket allowance of unlimited flexibility as to campground uses. That runs directly contrary to the express notion of the individualized assessment inherent in conditional use permit review and regulation, and necessary reliance on the particulars of a specifically identified proposal.

¹ For ease of discussion and interpretation, the Examiner shall, in this revised decision order and the accompanying order on reconsideration, term the existing soccer field/camp as the "basic" soccer camp, and the CUP camp development proposal of soccer camp support facilities (the residential dormitories, lodge, dining facilities, trainers' lodging, amphitheater, improved parking areas and associated grounds, etc.) as the "CUP facility" soccer camp.

7. One fundamental problem with allowing the greater flexibility the Applicant seeks by relaxing the “soccer camp” restriction on use of the CUP facility camp is that expansion into other types of sports would likely increase the CUP facility usage, merely by virtue of the fact that the market for the facilities will be expanded. To put it in simple terms, it is much more likely that the facility’s bookings will be increased, and to a full level, by virtue of its availability to users and groups in other types of sports than if it is restricted to soccer camp use, and therefore have a greater impact than would a solely soccer-oriented camp.
8. The Examiner also concurs with the positions of the County and the Appellants that the agency review conducted of the proposed conditional use permit development (the environmental review under SEPA and the regulatory land use review, including, critically, the individualized assessment which is necessarily involved in a conditional use permit review) was predicated on an expressly and solely proposed “soccer camp.” “Soccer camp” is the term of proposal that is used in the entirety of the application documents in the appeal record and in the DDES Report and Decision (epitomized by the proposed name of the facility: “Snoqualmie River Soccer Camp”); no other sport is mentioned anywhere. Of particular note in this regard is that the term “soccer camp” is used exclusively in the application documents to DDES and the Department of Health, the SEPA environmental review checklist, the SEPA MDNS threshold determination, the DDES Report and Decision, and the formal Notice of the DDES decision and threshold determination.
9. The question of which sports should be allowed and which disallowed requires full and complete review, not rushed accommodation as a late inclusion through the reconsideration process. As an example of the dilemma faced in deciding which sports should be accommodated, the Examiner would find some initial discomfort at least in considering camp use for rugby or North American or Australian Rules football training, based on at least initially perceived differences in clientele and style and intensity of activity, and the potential for correspondingly different offsite impacts than those considered to date.
10. The Examiner accordingly must at present maintain the restriction of the types of sports activities accommodated in the CUP facility camp to those which are strictly soccer-related. The accommodation of other sports would have to be undertaken through some sort of revision.
11. In order to facilitate review of such a revision more expeditiously, if the Applicant desires to pursue the inclusion of other sports, the Examiner would be more than willing to remand the application to DDES (through a further reconsideration process timely initiated by the Applicant) for re-review and consideration of a revised application. That approach would perhaps offer some procedural convenience compared to requiring a more formally distinct, post-CUP-issuance revision.

ORDER:

Pursuant to the above Findings and Conclusions, the Motion for Reconsideration is granted in part, and Condition 2 is further revised as stated in the enclosed Revised Report and Decision.

ORDERED June 11, 2007.

Peter T. Donahue
King County Hearing Examiner

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